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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,549	08/16/2006	Franz Ulrich Brockhoff	016382-9017	8492
7590	11/02/2007		EXAMINER	
Mark A Ussal Michael Best & Friedrich Suite 3300 100 East Wisconsin Avenue Milwaukee, WI 53202-4108			PEDDER, DENNIS H	
		ART UNIT	PAPER NUMBER	
		3612		
		MAIL DATE	DELIVERY MODE	
		11/02/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/589,549	BROCKHOFF, FRANZ ULRICH	
	Examiner Dennis H. Pedder	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 August 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 10-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 10-29 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/16/2006</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 14, 17, 25, 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim limitations for claims 14, 17, and 25 are apparently reversed with respect to "respectively" and should read --correspond to rear and upper contours of a window...-- as the rear pillar contour does not correspond to the upper contour of the door window, etc.

Claim 26 depends from itself and is treated below as if dependent on claim 1 for antecedent for the term "rear, side elements".

Double Patenting

3. Applicant is advised that should claim 19 be found allowable, claim 27 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10-11, 16-19, 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breitschwerdt et al. in view of King.
6. Breitschwerdt et al. have the rear roof part with rear window 15, rear pillars 3, and rear segment 21 displaceable in a longitudinal direction, but lack the forward removable roof part and the rear, side elements, a detail known in this art as evidenced by the patent to King at 18 and 80, respectively. It would have been obvious to one of ordinary skill to provide in Breitschwerdt et al. forward and side elements as taught by King in order to close the compartment in the figure 3 configuration.
7. The details of claim 17 are an obvious expedient to completely close the compartment.
8. As to claim 19, Breitschwerdt et al. have a chassis and windshield frame 2.
9. Claims 12-15, 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breitschwerdt et al. in view of King as applied to claims 10, 11, 19 above, and further in view of Gold.
10. Breitschwerdt et al. have a slidable rear window. It would have been obvious to one of ordinary skill to provide in the references above a pivotal rear window as taught by Gold in figure 1 in order to maximize interior storage space.
11. As to claim 20, see figure 1 of Gold, allowing easy access.
12. As to claim 21, foldable rear bench or individual seats are common knowledge in the art and with the increasing use of headrests that extend above the beltline, are obvious to use in Breitschwerdt et al. as modified by King in order to avoid interference with the slidable roof.

13. Claims 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breitschwerdt et al. in view of King and Gold as applied to claim 21 above, and further in view of Prosser.

14. It would have been obvious to one of ordinary skill to provide in the references above a pivotal rear roof part as taught by Prosser in order to experience a full convertible.

Drawings

15. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

16. *Applicant has not filed drawings in this application.*

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stefanski, applicant cited, is cited to show a further slidable rear roof part.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (571) 272-6667. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Dennis H. Pedder
Primary Examiner
Art Unit 3612
10/30/07

DHP
10/30/2007